

1 wouldn't happen. So I -- I'm not even going to
2 entertain how it could happen. I feel like we're
3 completely within the law, I feel like David and I have
4 run a good business, we've followed the guidelines of
5 the FCC rulings, we run an important business. I
6 just -- I can't -- I can't even begin to fathom having
7 to do this.

8 Q Well, if you're -- if you exhaust all your appeals and
9 you're told to turn off the translators you're going to
10 turn them off then?

11 A We have to have really valid reasons to do that. And
12 so far nothing -- none of those reasons have been
13 presented.

14 Q So unless a court gives you what you consider to be a
15 valid reason you're not going to obey any other court
16 order either, is that.....

17 A Before -- before a court in Washington, D.C. between
18 uninvolved judges that would hear our total case.

19 Q So.....

20 A And they will judge in their finite, this would be the
21 last opportunity that we would have, there would be no
22 other recourses, no other opportunities for appeal of
23 any kind. And we are to that end of that point, we'd
24 have to.

25 Q Okay.

1 A Because I know they have the authority to come in
2 basically with wire cutters and -- and take you down.

3 Q You would agree, wouldn't you, that translators cost
4 much less to build and to operate than a full service
5 station?

6 A Oh yes.

7 Q Okay. And that translators require little equipment
8 maintenance and less space than a full service station?

9 A Somewhat, yes.

10 Q Well, what do you mean by somewhat?

11 A Well, there's been times where David's had to go out in
12 the evening or make a trip to Seward or time
13 consuming -- if a translator's down in Seward it takes
14 all of his day, what -- what's his value from when he
15 travels to when he gets there to actually doing it.
16 There's a cost involved with maintaining them.

17 Q Well, would it.....

18 A You just don't plug them in and they work.

19 Q Well, would it be less expensive to have a translator
20 in Seward than it would be to have a full service.....

21 A Oh certainly.

22 Qstation in Seward?

23 A Oh certainly. You don't have the manpower or -- or a
24 facility, you know, a studio. Running a full station
25 is very expensive.

1 Q So even with the travel that occasionally happens for
2 maintenance purposes it's still less expensive to have
3 a translator there.

4 A Oh yes.

5 Q Do you know what the expenses are of any of the
6 translators?

7 A No, unh-unh (negative), I have no idea.

8 Q Wait a minute. This thing just went back weird on me.
9 Do you know John Davis of KSRM?

10 A I know who he is.

11 Q Have you ever met him?

12 A To be actually introduced to him, no. I've been in the
13 same place with him at the same time.

14 Q And you recall when KSRM had a translator in Homer.

15 A Yes.

16 Q And I believe PCI petitioned to get that turned off,
17 right?

18 A Yes we did at the time.

19 Q Okay. I think we just went through some documents
20 about that.

21 A Right.

22 Q And what was the reason that PCI petitioned to have
23 that translator turned off?

24 A We felt like it was unfair competition in our market
25 and -- but it was ruled against so that was a

1 springboard for us in a way to be able to start doing
2 our own translator systems.

3 Q Okay.

4 A And John was here for -- for years and years.

5 Q He was here before you all were here, right? Before
6 PCI.

7 A Well, just a short, short time.

8 Q Did PCI benefit financially from the termination
9 of that translator?

10 A He really didn't have much of a market down here.
11 Sales were not that high as far as what we understood.
12 So I don't know, I -- I really couldn't answer that.

13 Q I want to look at the last document that I had in front
14 -- oh wait, one second.

15 (Whispered conversation)

16 Q That translator, Mr. Davis' translator, was eventually
17 turned off, right?

18 A I think so, yeah.

19 Q And do you know when that was?

20 A No, not exactly.

21 Q Do you know why he turned it off?

22 A He said it was doing what he should do, but it was our
23 understanding -- he had lousy equipment, he couldn't
24 get it to work half the time. The signal was real
25 erratic, it was scratchy, people weren't listening to

1 it. He did not have -- have the technical or the --
2 the knowledge -- engineering knowledge to make it work.
3 Q So you don't believe that it was because he was told to
4 turn it off by the FCC?
5 A I don't think so.
6 Q And when you.....
7 A I think he just got tired of trying to maintain the
8 thing.
9 Q Okay. And when you said he says it was because he was
10 told to turn it off by the FCC, where did you hear
11 that?
12 A No, I didn't say that.
13 Q I thought that's what you just said.
14 A No, no I didn't know that. Yeah, I -- I had no -- no
15 knowledge, firsthand knowledge, of -- of what John did
16 as far as time frame and when he turned it off or
17 anything. We knew that he'd turned it off and we knew
18 there was a claim because the FCC had told him or
19 something. It was just -- it wasn't anything we were
20 really involved in. I mean John Davis' life is not a
21 concern to us.
22 Q How did you know it was his claim, what his -- what he
23 was claiming the reason to be?
24 A I didn't say that and I don't -- I don't know. I have
25 no idea what John's thinking was or how he acted.

1 Q Didn't I just hear you say that we knew it was turned
2 off and we knew he claimed that it was because of the
3 FCC?

4 A Oh, there was newspaper articles and stuff like that
5 that were floating around. You know, and talk around
6 town, well the reason he shut it off is because. But
7 firsthand knowledge and getting direct information, no.

8 Q Okay.

9 A We had none.

10 Q Okay. Did you participate -- oh wait, let's look at
11 the last document, I think that's what I was going to
12 do before I went back. The last document I have in
13 front in you is a letter on the letterhead of Kenneth
14 P. -- how do you pronounce his na.....

15 A It's Jacobus.

16 Q Jacobus.

17 A Uh-huh (affirmative).

18 Q And it's signed by Kenneth Jacobus and it's addressed
19 to Richard L. Pomeroy, U.S. -- Assistant U.S. Attorney,
20 and the letter's dated May 25, 2002.

21 A Uh-huh (affirmative).

22 Q Have you seen this letter before?

23 A I think so, it looks familiar.

24 Q Do you agree with the statement in the letter that --
25 let me find where it is. The first sentence of the

1 second paragraph, Peninsula Communications cannot
2 voluntarily cease operation because that will destroy
3 the business and the livelihoods of the owners and
4 employees. Do you agree with that?

5 A It's kind of a nebulous statement because we don't
6 know, but for all intensive purposes if it was there
7 would be a lot of destruction done. I'm not saying
8 total destruction. You've got to realize that half of
9 our business probably would be gone, the income --
10 revenue would be gone. How we would meet our bills, it
11 would be something I -- I don't know how we would do.
12 So, you know, if you ask me will -- is this going to
13 have a devastating impact on us I would have say
14 unequivocally yes. Yes.

15 Q Okay. So you have no problems with that particular
16 sentence.

17 A No.

18 Q Okay.

19 A No. We -- we really -- if this happens we don't know
20 which way we're going to be going.

21 Q Okay. Did you participate in the discussions with
22 Coastal Broadcast Communications regarding the sale of
23 PCI's translators at one time?

24 A No, not really, no. It was -- it was -- it was mainly
25 between Mr. Buchanan and Dave and -- my Dave and I knew

1 the results of it and what they were thinking about
2 doing but I -- I didn't participate.

3 Q Okay. Do you know how the translators were valued, how
4 the sales price was reached?

5 A Yeah, David and I had talked about that.

6 Q Okay.

7 A We just wanted to come up with a figure that would --
8 would be doable and that would work for Mr. Buchanan,
9 that we could still a -- you know, see something --some
10 value back from them. But the most value was of course
11 to be able to keep them on and keep them working.

12 Q All right. So what was the basis that you determined
13 the value? I mean was it just picked out of air that,
14 oh, we can all live with this figure or was there some
15 ex -- you looked at expense sheets or how did you
16 determine.....

17 A I'm not sure.

18 Qthat figure?

19 A I'm not sure. Yeah. I just knew that we didn't have
20 that much time to -- to consummate the sale and to get
21 him incorporated and -- and what would be a workable
22 number for both of us and that's basically where it
23 came from.

24 Q Okay. How are the translators valued for tax purposes?
25 Are they listed in your tax return for equipment?

1 A Well, the equipment is all listed as -- as -- but most
2 all of it is all depreciated by now, I mean it's all so
3 old that there's no tax -- tax value from any of them.
4 We're taxed on unsecure property but that goes with the
5 -- with the business.

6 Q Regarding the Kodiak translators, after the Air Force
7 destroyed the antennas how long were those stations off
8 of the air?

9 A I'm not sure, I've had to go back and look on some
10 records.

11 Q If you were -- reca.....

12 A It was -- it was less than a year because we were under
13 the gun to get it back on or lose our license.

14 Q Okay. If you recall Mr. Becker's testimony yesterday,
15 you were in the room.....

16 A Uh-huh (affirmative).

17 Q during that testimony. He testified that the
18 stations went back on the air for a short time between
19 May and November. Do you have any knowledge about
20 that?

21 A Yeah, we were able to do an uplink and -- and we were
22 able to -- to receive it and we wanted to make sure
23 that it would work.

24 Q Okay.

25 A We were just testing our uplink, downlink situation.

1 Because we thought that's -- that's the best way to go.
2 I mean we had the -- we had the capability of doing
3 that and we just wanted to make sure that it was -- and
4 we worked with Aksala and -- and got the downlink and
5 everything, had the equipment ready to go.

6 Q So were you doing regular broadcast, I mean you were
7 fully on the air for that week or do you know?

8 A Short off and on, just -- just checking. I'm not
9 really sure what the time frame was. I know we needed
10 a period of time to make sure that the whole thing
11 worked. Because when you have a downlink with a
12 satellite you've got weather conditions and -- you
13 know, there's just a lot of variables there when you're
14 dealing with a downlink.

15 Q Okay.

16 A And Aksala couldn't just drop everything and work with
17 us, we had to get them, you know, when they were
18 available.

19 Q Well, do you know -- during that week, for example,
20 were you on the air continuously during that week?

21 A I don't -- I don't -- any idea, I don't remember.

22 MS. LANCASTER: Let's go off the record for a minute
23 please.

24 THE REPORTER: Off record.

25 (Off record)

1 (On record)

2 THE REPORTER: On record.

3 MS. LANCASTER RESUMES:

4 Q Mrs. Becker, your husband testified yesterday that he
5 wouldn't shut down the translators, any of the
6 translators, even if they were profitable, do you
7 recall that testimony?

8 A Yes.

9 Q Do you agree with that?

10 A Yes. Yeah.

11 Q So if you were losing money on all the translators you
12 would still insist that they be.....

13 A That's a hypothetical.

14 Qon air.

15 A You know, 12 translators and, you know, there's no way
16 of -- of knowing that.

17 Q Well, let's say -- let's take all the translators
18 together and as a whole you were losing money on them,
19 you would continue to broadcast over the translators?

20 A If I knew unequivocally that all 12 translators were
21 costing me money and it was putting us in a hole on a
22 month to month basis then I'd have to reevaluate. But
23 I mean that's -- that's asking a question that's out
24 there that's -- there's no real answer.

25 Q Well, you're running a business, aren't you?

1 A Yeah.

2 Q And you're.....

3 A But it could be that -- that there would be enough
4 revenue coming in from other sources to -- to offset
5 that too.

6 Q So you would just keep -- let's just assume that you're
7 not making any money on these translators and that
8 you're having to pay expenses. Is it your position
9 that that's irrelevant, that you're going to continue
10 operating them?

11 A No, no, I mean we are -- we are business people, but
12 that's a hypothetical question that doesn't really make
13 any -- I mean if you're translating into an area where
14 there's people that are possibly listening their --
15 their value is important, of being there and -- and
16 being part of the listening audience. And what they do
17 then is they are consumers to the audience that we're
18 advertising to. So it would be something almost
19 impossible to really ever be able to measure.

20 Q And so it's your position at this point that the
21 translators are profitable.

22 A Probably in what they're able to do, yeah, I would
23 think so. I'd hope so.

24 Q Okay.

25 MS. LANCASTER: I have no further questions.

1 MR. SOUTHMAYD: Bear with me a moment.

2 (Pause)

3 CROSS EXAMINATION

4 BY MR. SOUTHMAYD:

5 Q I know I'm a week early, but happy 37th anniversary.

6 A Hey, thank you.

7 (Pause)

8 Q Eileen, you indicated that there have been some
9 newspaper articles about this current FCC proceeding?

10 A Yeah, that's right.

11 Q Have they impacted in any way on the -- your business
12 on the station?

13 A Very definitely, yeah. It's caused my salesmen to have
14 to explain the situation and -- and put our
15 advertisers' minds to rest that they're not really
16 dealing with pirates.

17 Q Do you know if any of these newspaper articles have
18 referred to you and your husband as pirates?

19 A They were talking about pirating radio which would
20 reflect back on us, and also quoting several times that
21 we were running a illegal operation. So that's kind of
22 a criminal accusation.

23 Q How long have you been in Homer?

24 A It's almost 30 years.

25 Q Are you involved in civic organizations there in Homer?

1 A Yes, quite a few. I'm pretty busy.

2 Q In the context of these civic organizations have you
3 received any feedback from your friends and neighbors
4 about these newspaper articles?

5 A Yeah, I have. I can't hardly go in a grocery store or
6 Chamber meeting or anyplace and not have people talk to
7 me and ask me about things and -- no, it's -- it's --
8 it's very much out in front of me most all the time.

9 Q Have these had an impact on you personally in any way?

10 A Well, if you call heart surgery last month, I think
11 that that might have something to do with it. It was
12 been very stressful.

13 Q Do you believe that it did have something to do with
14 your need for heart surgery?

15 A The doctor said it could possibly be stress related.
16 It's not an unusual thing, but it -- it definitely did.
17 It has -- it's impacted our lives and our emotions
18 and -- and I think our relationship with other people.

19 Q Now you've been -- how long have you been in the
20 broadcast business in Alaska?

21 A It's been 23 years.

22 Q Twenty-three years?

23 A Yeah. That's right. September will be almost 24.

24 Q Do you believe that this FCC proceeding has impacted in
25 any way on your business reputation?

1 A I think because people understand the situation pretty
2 much, I don't know that our business reputation has
3 been damaged. I do think that people are real cautious
4 of -- of their dealings with us not knowing for sure
5 what, you know, the -- the future holds for PCI.
6 More -- the most part the business community has been
7 very supportive and very kind. But it has -- it
8 definitely has had an impact.

9 Q An impact negative or positive?

10 A Well, it's been negative. I mean businesses that would
11 normally sign a year contract or enter into a long term
12 agreement are very cautious about getting real
13 involved. We have power outages occasionally and our
14 phones light up, people are wanting to know if we've
15 been, you know, taken off the air. They're not
16 understanding exactly what all is happening but
17 concerned and just -- I've got -- we have a lot of
18 friends that are just real anxious for us and -- and
19 watching to see what's going to happen next.

20 Q And what's your level of concern over this matter at
21 this point?

22 A I feel like we're to the point where it's kind of
23 winding down and there'll probably be something decided
24 shortly. It's something that I wake up in the morning
25 and I think about and it's on my mind most of the day.

1 And I know that it's affected David and his time frame
2 and -- and just our ability even to -- to be a family.

3 Q Thank you.

4 A Thank you.

5 REDIRECT EXAMINATION

6 BY MS. LANCASTER;

7 Q I have a couple of follow up questions based on those
8 questions. The newspaper articles that Mr. Southmayd
9 referenced, in those articles Mr. Becker has been given
10 an opportunity to make statements, is that correct?

11 A In the actual newspaper articles yes, but not the
12 actual paid ads that have basically been thwarted
13 towards us. Those have been paid for ads that he's,
14 you know, contracted the newspaper to do.

15 Q Who has contracted?

16 A John Davis, KSRM has contracted the Clarion and whoever
17 else. He's -- he's bought the -- he's purchased the
18 space, which, you know, the newspaper has every right
19 to -- to do and John has every right to do I guess.

20 Q Are you contending that the statements made in John
21 Davis' newspaper ads are false?

22 A Yes, oh yeah.

23 Q Then why haven't you sued him for slander?

24 A Because we try to keep as low a profile with this until
25 it's actually settled through the courts.

1 Q So after this is settled through the courts, assuming
2 it's done within a reasonable time period, do you plan
3 to sue him for slander?

4 A I don't know, I don't know. We just want to get
5 through this right now.

6 Q The newspaper articles themselves however have all had
7 quotations from your husband, is that correct?

8 A Not the -- not the paid for ads.

9 Q No, the newspaper articles.....

10 A Oh yeah.

11 Qwritten by the newspaper.

12 A I would -- I think most of them have. There might have
13 been one that didn't. But the Clarion's been good to
14 follow up and get an actuality from David.

15 Q Okay. And do they have any statements from your
16 competitors in those newspaper articles?

17 A Oh yeah, yeah, they do a pretty good cross examination.

18 Q So both sides have gotten to tell their stories in the
19 articles?

20 A I think this thing is so huge it's really hard to put
21 the whole story out there. It's just the things that -
22 - and -- and, you know, as a broadcaster, you know, I
23 don't have an awful lot of confidence in newspapers so
24 the newspaper is able to only print so much space. You
25 know, for us as a broadcaster a newspaper's good to put

1 in the bottom of a bird cage. So I don't -- you know,
2 I'm not really that involved with that. But I also
3 know that the newspaper did run even a poll on their
4 web page, should we be allowed to stay on the air, yes
5 or no. And I'm looking at that going wait a minute,
6 you know, they're airing my underwear, yes or no, for
7 the public to decide. When -- the way that they did it
8 was so poor. You know, it's just amazing to watch.

9 Q And what was the results of the pool?

10 A After I got on the Internet and notified all my friends
11 as to go -- where to go and vote it went up very, very,
12 very high. I was just irritated that they had done
13 that. It was like 85 percent felt like we should be
14 left alone.

15 Q Of course these are from -- people are voting that
16 don't know anything about the facts, right?

17 A That's right.

18 Q Right.

19 A Yeah. That's the -- having your underwear out there
20 being aired, it was awful.

21 Q Now you just testified that you really don't think that
22 this publicity or this FCC proceeding has adversely
23 impacted your business reputation, is that correct?

24 A Well, no, it has, it has impacted us. It's impacted us
25 by just our ability to operate and -- and -- and -- and

1 people willing to advertise with us. As far as our
2 reputation, as far as the average person on the street
3 looking at Dave and Eileen Becker, there's no animosity
4 or -- or bad feelings, they just feel like it's a
5 process that we're having to go through. But the
6 business community, yeah, they've been real careful.

7 Q And you think that the reason that people on the street
8 don't look at you and think it's any -- that you've
9 done anything wrong might be because you've been
10 effective in getting your side of the story out?

11 A We have not done anything to get our -- our side out
12 other than mail outs to our customers.

13 Q Well, you've also -- Mr. Becker's been interviewed in
14 these newspaper articles, hasn't he?

15 A Yeah, little sketches. But the full story as far as
16 really -- from the beginning to the end, whatever the
17 end's going to be, has never really been presented.
18 It's just -- the stories have been more relying on
19 actions by the FCC and what's happening next kind of
20 thing.

21 Q Well, they haven't contained any quotations or anything
22 from FCC staff, have they?

23 A No.

24 Q It was just.....

25 A No, just from the paperwork?

1 Q Yeah, they've just had an Order or something that's
2 come out and then they'll do an article about it, is
3 that what I understand?

4 A Do their interpretation of the article, yeah.

5 Q Okay. And it's my understanding that at one point Mr.
6 Becker went to the papers and said that he would not
7 let them interview him anymore if they didn't start
8 taking a different slant on the story, is that correct?

9 A I don't know about that.

10 Q If I was told that by Mr. Coval do you have any reason
11 to doubt that?

12 A No, I -- you know, Dave and -- and Terry talk about
13 things that maybe I'm not privy to.

14 Q Okay.

15 A But I have a -- I have a policy with the newspaper that
16 I've been quoted so wrong so many times I'm real
17 hesitant, you know. If they quote me on anything I
18 want to see it before it goes to press. And I don't
19 think that's asking too much. Because -- like I can
20 talk to you about anything and your interpretation of
21 it because you're not real privy to everything -- you
22 know, you may be hearing me different. And so I think
23 we have a -- a right to check and balance, you know,
24 what we're saying.

25 Q The newspaper ads that you say John Davis has taken

1 out, what did they say?

2 A A lot. They were half page small print. I -- I
3 couldn't quote you much of it, I just know that -- and
4 in fact it was so irritating when I saw one of them I
5 didn't read the whole thing. I mean it was just
6 blatantly a very, very -- I think a very mean thing to
7 do. And I just didn't even want to read it, I was just
8 that irritated at it. And I -- I don't give John Davis
9 the time of day. I mean this man has his own agenda.
10 You know, I -- I have other things to do besides worry
11 about him.

12 Q Well, how many have there be?

13 A I think at least two.

14 Q And when did they come out?

15 A I don't know, I'd have to look back on our files, we
16 have copies of them.

17 Q Okay.

18 MS. LANCASTER: Okay, I have nothing else.

19 RECROSS EXAMINATION

20 BY MR. SOUTHMAYD:

21 Q Eileen, did you -- to your knowledge have you or your
22 husband ever done anything to John Davis to spur him to
23 take out newspaper ads disparaging you?

24 A Yeah, 23 years ago we went on the air. And that's been
25 a bone of contention for him ever since.

1 Q But I mean have you ever slashed his tires, egged his
2 house?

3 A No. No, in fact I was good friends with his wife for
4 quite a few years before she died of cancer.

5 Q I see.

6 MR. SOUTHMAYD: That's all I have.

7 MS. LANCASTER: We're through.

8 THE REPORTER: Okay.

9 MR. SOUTHMAYD: Eileen, thank you very much.

10 THE WITNESS: Thank you Jeffrey.

11 MR. SOUTHMAYD: I hope you're doing well.

12 THE WITNESS: I'm doing excellent, thank you.

13 MS. LANCASTER: We can go off.

14 THE REPORTER: Off record.

15 (Deposition adjourned at 2:25 p.m.)

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1 I have read the foregoing pages 293 through 363,
2 and they are a true and accurate record of my
3 testimony therein recorded, and any changes and/or
4 corrections appear on the attached errata sheet
5 signed by me.

6 _____
7 EILEEN BECKER
8

9 Subscribed and sworn to before me

10 this ____ day of _____, 2002.

11 _____
12 Notary Public

13 My Commission expires: _____
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REPORTER'S CERTIFICATE

FCC DOCKET NO.: 02-21


CASE TITLE: Peninsula Communications, Inc.

HEARING DATE: August 15, 2002

LOCATION: Homer, Alaska

I hereby certify that the proceedings and evidence are contained fully and accurately on the tapes and notes reported by me at the hearing in the above case before the Federal Communications Commission.


Date: 8/15/02


Merriam Warrington
Official Reporter
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TRANSCRIBER'S CERTIFICATE

I hereby certify that the proceedings and evidence were fully and accurately transcribed from the tapes and notes provided by the above named reporter in the above case before the Federal Communications Commission.


Date: 8/15/02


Merriam Warrington
Official Transcriber
Heritage Reporting Corporation

PROOFREADER'S CERTIFICATE

I hereby certify that the transcript of the proceedings and evidence in the above referenced case that was held before the Federal Communications Commission was proofread on the date specified below.

Date: 8/15/02


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